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10 **UNITED STATES BANKRUPTCY COURT**

11 **DISTRICT OF NEVADA**

12 In re:

13 JAMES FREDERICK RAUM and
14 JULIE ANN MARIE RAUM,
15
16 Debtors.

Case No. BK-N-12-52643-BTB
Chapter 11

**EX PARTE MOTION FOR ENTRY OF
FINAL DECREE AND ORDER CLOSING
CHAPTER 11 BANKRUPTCY**

Hearing Date: Ex parte
Hearing Time: No hearing required

17 Reorganized Debtors, JAMES FREDERICK RAUM and JULIE ANN MARIE RAUM (the
18 “Debtors”), by and through their counsel of record, KEVIN A. DARBY, ESQ. of Darby Law
19 Practice, Ltd., moves this Court, *on an ex parte basis*, for entry of final decree and an order closing
20 this case (the “Motion”). This Motion is made pursuant to 11 U.S.C. §350 and Fed. R. Bankr. P.
21 3022, Local Rules 3022 and 9014, and is supported by the Debtors’ confirmed Chapter 11 Plan of
22 Reorganization and the following points and authorities.

23 **POINTS AND AUTHORITIES**

- 24 1. This voluntary Chapter 11 case was filed on November 20, 2012. *See Doc 1.*
25 2. On May 17, 2013, this Court entered an Order Confirming Debtors’ Chapter 11 Plan
26 of Reorganization. *See Doc 91.*
27 3. Pursuant to section 11(C) of the confirmed plan, the Debtors’ “estate shall be deemed
28 to be fully administered upon the commencing of distributions to any creditor under the Plan.”

4. In this Motion, Debtors seeks entry of a final decree and for an order closing this case as being fully administered pursuant to the terms of the Plan.

5. Closure of a case is governed by 11 U.S.C. § 350(a), which provides: "After an estate is fully administered and the court has discharged the trustee, the court shall close the case." Bankruptcy Rule 3022 helps courts implement § 350(a) in the chapter 11 context. Rule 3022 provides: "After an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case." Fed.R.Bankr.P. 3022. Commentary associated with this Rule provides useful guidance in its application. A 1991 Advisory Committee Note provides:

Entry of a final decree closing a chapter 11 case should not be delayed solely because the payments required by the plan have not been completed. Factors that the court should consider in determining whether the estate has been fully administered include (1) whether the order confirming the plan has become final, (2) whether deposits required by the plan have been distributed, (3) whether the property proposed by the plan to be transferred has been transferred, (4) whether the Debtors or the successor of the Debtors under the plan has assumed the business or the management of the property dealt with by the plan, (5) whether payments under the plan have commenced, and (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

Fed.R.Bankr.P. 3022, Advisory Committee Note (1991). The nature of these considerations calls for a flexible, case-by-case evaluation of a number of procedural and practical factors. In re Union Home & Industrial, Inc., 375 B.R. 912, 917 (10th Cir. BAP 2007).

6. Debtors submit that all administrative tasks in this case have been completed and, therefore, it has been fully administered and entry of a final decree under section 350 of the Bankruptcy Code is appropriate.

7. To Debtors' knowledge, all matters relating to the allowance, amount, validity and priority of claims have been resolved, and there should be no need or occasion for the Debtors, or any other party in interest to seek any other or further relief from this Court in connection with this case.

8. The Debtors' Plan was confirmed and has been substantially consummated. *See*, 11 U.S.C. § 1101(2) (defining "substantial consummation"). Debtors have commenced making required

1 payments under the Plan to creditors. Furthermore, any issues concerning claims have been resolved,
2 so the only thing that remains to be done is for the Debtors to successfully perform under its Plan.

3 9. In addition, the Debtors believes that the further activities necessary to carry out its
4 Plan, including the making of distributions to the holders of allowed claims during the existing life of
5 the Plan can proceed effectively without the continuing supervisory jurisdiction of this Court.

6 10. The closing of the case would also avoid the further accrual of quarterly obligations
7 for Debtors to pay fees to the United States Trustee pursuant to 28 U.S.C. § 1930.

8 11. The Debtors intends to pay any outstanding Trustee fees under 28 U.S.C. § 1930 not
9 later than thirty (30) days after entry of the final decree. The proposed order accompanying this
10 application requires such payment within that time.

11 WHEREAS the Debtors has completed the tasks necessary for this Confirmed Plan to be
12 deemed fully administered and substantially consummated, the Debtors respectfully requests the
13 entry of an order closing this case and authorizing the entry of final decree as proposed in form
14 substantially and attached hereto as Exhibit A.

15 DATED this 4th day of September, 2013.

16 DARBY LAW PRACTICE, LTD.

17 /s/ Kevin A. Darby

18 By: _____
19 KEVIN A. DARBY, ESQ.
20 Counsel for Debtors

21 APPROVED:

22 OFFICE OF THE U.S. TRUSTEE


23 By: 
24 _____
25 Attorney for Acting United States Trustee
26 August B. Landis
27
28

EXHIBIT 1

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16 Counsel for Debtors and
17 Debtors in Possession

18 **UNITED STATES BANKRUPTCY COURT**

19 **DISTRICT OF NEVADA**

20 In re:

21 JAMES FREDERICK RAUM and
22 JULIE ANN MARIE RAUM,

23 Debtors.

Case No. BK-12-52643-BTB
Chapter 11

**ORDER CLOSING CHAPTER 11
BANKRUPTCY CASE AND
AUTHORIZING ENTRY OF FINAL
DECREE**

Hearing Date: Ex parte
Hearing Time: No hearing required

24
25 Upon the ex parte motion for entry of final decree and order closing this present chapter 11
26 case filed September 4, 2013 by Debtors, JAMES FREDERICK RAUM and JULIE ANN MARIE
27 RAUM, (the "Motion"); this Court having considered the Debtors' confirmed chapter 11 plan of
28 reorganization and the papers and pleadings filed herein; and having determined the estate as fully

1 administered and substantially consummated; good cause appearing,

2 IT IS HEREBY ORDERED, the Motion is GRANTED; this present chapter 11 bankruptcy
3 case is closed effective upon entry of this order;

4 IT IS FURTHER ORDERED that the Clerk of this Court is authorized to enter the FINAL
5 DECREE.

6 IT IS SO ORDERED.

7 Submitted:

Approved



Attorney for Acting United States Trustee
August B. Landis

9 By: /s/ Kevin A. Darby

By: _____

10 KEVIN A. DARBY, ESQ.
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15 Counsel for Debtors

Attorney for Acting United States Trustee
August B. Landis

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